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No. 91-

Supreme Court, U.S.
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In the
Supreme Court of the United States

OCTOBER TERM, 1991

LEO POCCHIARI,
PETITIONER,

v.

BOARD OF REGENTS, ET AL.,
RESPONDENTS.

RESPONDENTS' BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI.

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BATEMAN & SLADE, INC. BOSTON, MASSACHUSETTS

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Reasons for Denying the Writ.

This case was not an "ex parte" trial. Plaintiff Pocchiari was present at the trial as was counsel for the defendants, and the defendant principal of the Rhode Island School for the Deaf. Defendants are not aware of any rule of law which would require the Commissioner of Education of the State of Rhode Island to be physically in the courtroom at the time this matter went to trial.

Plaintiff Pocchiari was accorded discovery in this case. This discovery included depositions from the Commissioner of Education, the Principal of the Rhode Island School for the Deaf,

a secretary at the School for the Deaf, and depositions from two fellow audiologists. Defendants also answered interrogatories and produced numerous documents.

Plaintiff Pocchiari's problem was that he was not able to substantiate his allegations. Moreover, since Mr. Pocchiari's collective bargaining unit elected not to pursue his grievances, Mr. Pocchiari was barred from presenting them himself in court. *Belanger* v. *Matteson*, 115 R.I. 332, 346 A.2d 124.

Conclusion.

The Rhode Island Supreme Court did not err in dismissing the plaintiffs appeal.

Respectfully submitted,

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